

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID J. ECCLESTON,
Plaintiff.

Case No. 14-cv-04094-CW (PR)
ORDER GRANTING REQUEST FOR
VOLUNTARY DISMISSAL

On September 9, 2014, Plaintiff David J. Eccleston filed a letter addressed to a judge indicating that Dr. Kiran Toor, an employee at Valley State Prison, was violating Plaintiff's rights. The Clerk of the Court construed this as an attempt to file a civil rights complaint and opened a case file. On October 1, 2014, Plaintiff sent another letter to the Court indicating that he was not ready to file a complaint, but that he will file one in the near future. The Court construes this as Plaintiff's notice that he wishes to voluntarily dismiss this action. This request is granted and this action is dismissed. See Fed. R. Civ. P. 41(a)(1)(A)(i) ("[T]he plaintiff may dismiss an action without order of the court . . . by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment."); Hamilton v. Shearson-Lehman Am. Exp. Inc., 813 F.2d 1532, 1534-1536 (9th Cir. 1987) (Rule 41(a)(1)(A)(i) does not require leave of court to dismiss the action). The dismissal is

1 without prejudice to refiling a complaint in the future. See Fed.
2 R. Civ. P. 41(a)(1)(B) (unless plaintiff's notice of dismissal
3 states otherwise, it is deemed to be "without prejudice").

4 The Clerk of the Court shall close the file and terminate any
5 pending motions. Because this case was opened in error, the Clerk
6 of the Court shall not charge a filing fee.

7 IT IS SO ORDERED.

8
9 Dated: October 14, 2014



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

United States District Court
Northern District of California

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ECCLESTON, et al.,
Plaintiff,

v.

,
Defendant.

Case No. 14-cv-04094-CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 10/14/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

David J. Eccleston ID: P-79076
Valley State Prison AZ-16-iL
P.O. Box 92
Chowchilla, CA 93610

Dated: 10/14/2014

Richard W. Wieking
Clerk, United States District Court

By: 
Nikki D. Riley, Deputy Clerk to the
Honorable CLAUDIA WILKEN